



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
33 WEST STATE STREET  
P. O. BOX 039  
TRENTON, NEW JERSEY 08625-0039

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

ANDREW P. SIDAMON-ERISTOFF  
*State Treasurer*

JIGNASA DESAI-MCCLEARY  
*Director*

Telephone (609) 292-4886 / Facsimile (609) 984-2575

February 24, 2015

Via Electronic Mail [ramhydraulics@gmail.com] and USPS Regular Mail

Michael Mattei, President  
RAM Hydraulics  
215 Hickory Lane, Suite B  
Bayville, NJ 08721

Subject: Contention: Non-Notification of Bidding Opportunity – Contract T2108  
RFP 15-X-23440 – *Maintenance and Repair for Heavy Duty Vehicles . . .*

Dear Mr. Mattei:

This letter is in response to your email communication dated February 11, 2015, received by the Procurement Bureau (formerly Purchase Bureau), the unit within the Division of Purchase and Property (“Division”) which conducts the open competitive procurements of State contracts, including the subject T2108 contract. Your email contends that RAM Hydraulics (“RAM”), an incumbent T2108 contractor, did not receive an emailed notice of the subject contract re-procurement and thus did not submit a proposal prior to the publicly advertised proposal submission deadline of 2:00 p.m., October 3, 2014. You claim that your secretary had signed up with the Division’s eRFP Notification Service, but had not received notice of the bidding opportunity. You ask that special consideration be given by allowing RAM to submit a proposal at this time.

In response to your assertion, the Division’s Hearing Unit has conducted a review of the record of the formal procurement process conducted for the T2108 contract. The record reveals that the procurement was conducted in full accordance with the Division’s governing statutes and by its standard announcement procedures and practices, including public notice by newspaper advertisement and by direct email notice to vendors who were registered with the Division’s e-RFP Notification Service for Commodity Code-Class 060-66 (PARTS AND ACCESSORIES, AUTOMOTIVE, MISCELLANEOUS (NOT OTHERWISE CLASSIFIED)), the sole class code used for the recent procurement. This commodity code was also the sole class code used for the prior procurement of the T2108 contract in 2008 for which RAM successfully competed to attain its current contract.

A review of the current eRFP Notification Service listing of the commodity codes for which [ramhydraulics@gmail.com](mailto:ramhydraulics@gmail.com) is registered includes Commodity Code 060-66. However, efforts to ascertain if this email address was registered for that commodity code prior to or during the period when the subject re-procurement was active, i.e., between August 29, 2014, when the bidding opportunity was publicly advertised in *The Star Ledger* newspaper and announced on the Division's website where potential bidders could download the RFP, and October 3, 2014, when the bidding period ended, proved undeterminable. The record does indicate that both the initial registration and the "last entry" by [ramhydraulics@gmail.com](mailto:ramhydraulics@gmail.com) occurred on February 12, 2015, well after the closing of the bidding period for the recent re-procurement of the T2108 contract. This finding supports a conclusion that [ramhydraulics@gmail.com](mailto:ramhydraulics@gmail.com) was not registered with the eRFP Notification Service at the time two separate email notices regarding the re-procurement of T2108 were issued by the Division to vendors duly registered under Commodity Code 060-66, i.e., on August 29, 2014, and September 18, 2014.

I further note that, at registration or re-registration and with each notice issued therefrom, all eRFP Notification Service registrants are advised as follows:

**eBid e-mail [sic] Notification Disclaimer**

This eBid email notification system is provided as a courtesy service to the public. Therefore, the State of New Jersey disclaims any express or implied warranties related to the use of the email notification system and for any materials, information, and/or processes contained within the email notification system. Furthermore, the State does not assume any responsibility for the use of or reliance on any information, delivery of information and/or any transmission or non-transmission of such information, provided by the eBid email notification system. Users of the eBid email notification system assume the risk of using or relying on the information. Users are directed to the Division of Purchase and Property Website for any and all up to date information. Neither the State, its employees, nor its agents shall be liable for any damages, including indirect, special, incidental, or consequential damages a user incurs as a result of viewing, distributing, or copying materials, from use of the email notification service even if advised of the possibility of such damages. Any dispute arising from using or attempting to use information or materials contained herein shall be determined in accordance with New Jersey law without regard to conflict of law principles, in the courts of New Jersey.

The Division's public procurement program reflects New Jersey statutory and regulatory requirements that have been affirmed by New Jersey courts. A basic precept of the statutes and regulations governing the Division's public procurement program requires that sealed proposals be submitted by the specified and advertised deadline for submission of proposals as announced by public advertisement and website notice. There is no statutory or regulatory requirement for email or other direct notice to potential bidders. The Division's regulations set forth procurement notification requirements at N.J.A.C. 17:12-2.1, *Advertising*, as follows in pertinent part:

....

(c) In addition to statutorily mandated public advertising, the Division shall also publish notices of bidding opportunities on the Division's website.

(d) As a service to vendors interested in competing for State contracts to be awarded by the Division and to any other parties seeking information about bidding opportunities available via the Division's competitive contract procurement program, the Division provides an on-line self-registration service known as the e-RFP Notification Service. Vendors and other interested parties can register to receive direct e-mail notices pertaining to the Division's procurements for goods or services based upon specific commodity classes or codes. As this is a self-registration process, it does not create an entitlement for any party to receive notice of any particular solicitation of proposals, and the Division and the State shall not be liable for any losses, claims, or damages of any kind if a vendor or other party, for any reason, is not registered or does not receive an e-mail notice. It is the responsibility at all times for e-RFP Notification Service registrants to exercise due diligence in reviewing the notices on the Division's website to assure their awareness of State bidding opportunities announced by the Division.

Based upon the information before me, I have determined that there is no means for RAM to participate in the competition for an award of the T2108 contract at this time, having missed the publicly advertised, time-limited bidding opportunity. Therefore, I deny your request for special consideration for an award of the T2108 contract. This is the Division's final agency decision on this matter.

While this is an unfortunate outcome for both RAM and the State, the Division will appreciate your continuing interest in doing business with the State and your firm's future participation in the Division's competitive procurement program. Thank you for RAM's October 21, 2014 pre-registration with **NJ START**, the Division's soon-to-be-activated all-encompassing procurement program.

Sincerely,  


Ronald G. Wengerd  
Chief Hearing Officer

- c: R. Sharbaugh  
K. Thomas  
V. Bequer  
D. Rodriguez